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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,063	10/24/2005	Tatsuhiro Takahashi	Q75351	6555

23373 7590 01/05/2007

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EXAMINER	
NILAND, PATRICK DENNIS	
ART UNIT	PAPER NUMBER
1714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

C

Office Action Summary	Application No.	Applicant(s)	
	10/554,063	TAKAHASHI ET AL.	
	Examiner	Art Unit	
	Patrick D. Niland	1714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-2 and 4-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. No. 5458967 Kanno et al..

Kanno discloses carbon fibers from vapor phase growth methods having the instantly claimed diameters and aspect ratios at the abstract; column 1, lines 9-67, particularly 16-29 and 64-67; column 2, lines 1-67, particularly 1-60; column 3, lines 40-67; column 4, lines 1-67; and the remainder of the document. Since the components of the patentee are those of the instant claims, they are expected to necessarily give the instantly claimed crystallization promotion and therefore X-ray peaks when they are in the resins of the patentee. All resins have amorphous character. The exemplified kneading temperatures read on the instant claim 14. Since the compositions of the patentee are otherwise those of the instant claims, they are expected to inherently have the tribology of the instant claim 17. The articles of the patentee are those of the instant claim 18.

4. Claims 1-2 and 4-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5458967 Kanno et al..

Kanno discloses carbon fibers from vapor phase growth methods having the instantly claimed diameters and aspect ratios at the abstract; column 1, lines 9-67, particularly 16-29 and 64-67; column 2, lines 1-67, particularly 1-60; column 3, lines 40-67; column 4, lines 1-67; and the remainder of the document. Since the components of the patentee are those of the instant claims, they are expected to necessarily give the instantly claimed crystallization promotion and therefore X-ray peaks when they are in the resins of the patentee. All resins have amorphous character. The exemplified kneading temperatures read on the instant claim 14. Since the compositions of the patentee are otherwise those of the instant claims, they are expected to inherently have the tribology of the instant claim 17. The articles of the patentee are those of the instant claim 18.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the instantly claimed ingredients and combinations thereof in the compositions of the patentee and the instantly claimed aspect ratio in the carbon fiber of the patentee because these parameters are disclosed by the patentee and would have been expected to give the properties discussed by the patentee.

5. Claims 1-6 and 9-18 are rejected under 35 U.S.C. 102(b) as being anticipated by US Pat. Application Pub. No. 2003/0049443 A1 Nishimura et al..

Nishimura discloses the instantly claimed resin crystallization promoter at the abstract; sections [0002]-[0141] and the claims, particularly sections [0015], [0032], [0055], [0057], [0070], [0097], and [0098] in which the kneading temperature is expected to be that of the instant claim 14 in order to obtain the dispersion required of this section and it is expected that the resin must be thermoplastic to do this since one could not homogeneously disperse filler in thermoset

resin by kneading by definition of thermoset and all polymers have amorphous character. Since the compositions of the reference are otherwise those of the instant claims, they are expected to inherently have the tribology of the instant claim 17. The articles of the reference are those of the instant claim 18. Since the components of the patentee are those of the instant claims, they are expected to necessarily give the instantly claimed crystallization promotion and therefore X-ray peaks when they are in the resins of the patentee.

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-18 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-15 of copending Application No. 10/553868. Although the conflicting claims are not identical, they are not patentably distinct from each other because, although the claims differ in scope, they are generally drawn towards the same fibers and the fibers in resins which encompass those of the instant claims. Since the

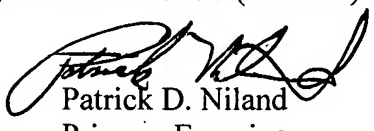
ingredients overlap, the instantly claimed physical parameters are expected to be necessarily and inherently possessed by the compositions and methods of the copending claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick D. Niland whose telephone number is 571-272-1121. The examiner can normally be reached on Monday to Thursday from 10 to 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan, can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Patrick D. Niland
Primary Examiner
Art Unit 1714